

A RESOLUTION

01-*R*-0198

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING PAYMENT IN THE
AMOUNT OF \$2,500.00 IN SETTLEMENT OF THE CLAIM
OF BARBARA J. CLARKE, THROUGH HER ATTORNEY,
ERSKINE D. MCINTOSH AGAINST THE CITY OF
ATLANTA**

WHEREAS, Barbara J. Clarke, through her attorney, Erskine D. McIntosh, has filed a claim against the City of Atlanta seeking damages arising out of personal injuries sustained when she slipped and fell on the octagonal concrete stepping-stones in the roadway at Broad and Poplar Streets; and

WHEREAS, the City of Atlanta was aware of a problem with the stepping-stones flipping over, but had failed to repair the road in a timely manner; and

WHEREAS, the construction and maintenance of public roads is a ministerial function and therefore this claim is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

WHEREAS, the claimant has asserted damages in the amount of \$65,000.00, but has agreed to accept the sum of \$2,500.00 in full and complete satisfaction and settlement of her claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of Barbara J. Clarke, through her attorney, Erskine D. McIntosh, be settled for the sum of \$2,500.00.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$2,500.00 be paid by the City of Atlanta in satisfaction of any and all claims Barbara J. Clarke, through her attorney, Erskine D. McIntosh may have stemming from personal injuries she sustained on or about December 2, 1996 at Broad and Poplar Streets.

BE IT FURTHER RESOLVED that the Chief Financial Officer be and hereby authorized to pay the above mentioned sum from account number 1A01/529017/T31001.

F-4

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 97L0114

Date: 2/2/01

Claimant /Victim BARBARA CLARKE
BY: (Atty) ERSKINE D. MCINTOSH
Address: 900 Chapel Street, Suite 535 New Haven, Connecticut 06510-2809
Subrogation: Claim for Property damage \$ Bodily Injury \$ 65,000.00
Date of Notice: 2/12/97 Method: Written, proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 12/2/96 Place: Broad and Poplar Streets
Department Public Works Division: Street Operations
Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant states that she sustained damages when fell on broken cobblestones in the street and it caused her to fall and injure her right ankle. The City had prior notice and had failed to correct the problem.

INVESTIGATION:

Statements: City employee Claimant Other Written X Oral
Pictures X Diagrams Reports: Police Dept Report Other
Traffic citations issued: City Driver Claimant Driver
Citation disposition: City Driver Claimant Driver

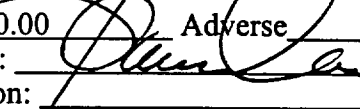
BASIS OF RECOMMENDATION:

Function: Governmental Ministerial X
Improper Notice More than Six Months Other Damages reasonable
City not involved Offer rejected Compromise settlement X
Repair/replacement by Ins. Co. Repair/replacement by City Forces
Claimant Negligent City Negligent X Joint Claim Abandoned

Respectfully submitted,


INVESTIGATOR - ALEXIS HOLMES

RECOMMENDATION:

Pay \$ 2,500.00 Adverse Account charged: 1A01 X 2J01 2H01
Claims Manager:  Concur/date 02-02-01
Committee Action: Council Action

LAW OFFICES OF ERSKINE D. McINTOSH, P.C.

900 CHAPEL STREET - SUITE 630

POST OFFICE BOX 1836

NEW HAVEN, CONNECTICUT 06508-1836

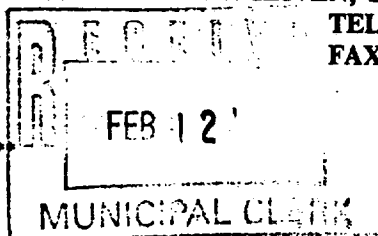
TEL (203) 787-9994

FAX (203) 782-0305

ENTERED - 2/24/97 -tew

97L0114 - ANTHONY G. OATIS

ERSKINE D. McINTOSH*
CHERYL D. WHITE-MINK*



February 7, 1997

*ALSO ADMITTED TO DC BAR

**ALSO ADMITTED TO PA BAR

Ms. Olivia Parks-Woods
City Council Municipal Clerk
City of Atlanta
55 Trinity Ave., S.W.
Suite 2700
Atlanta, GA 30335

RETURN RECEIPT REQUESTED
P 601 259 785

Re: Barbara J. Clarke vs. City of Atlanta

Time and Date of Injury: 12 p.m., December 2, 1996

Location of Accident: Broad and Poplar Streets, N.W.
Atlanta, GA

Our File No. M/ 3796-001

Dear Ms. Parks-Woods:

Please be advised that on the above date and time my client, Mrs. Barbara J. Clarke, while walking along Poplar Street, N.W. stepped into Poplar Street near Broad Street, N.W. tripped and fell in a hole where the cobblestoned street was in disrepair. The hole in which she fell was approximately 3 to 5 feet from the corner of Popular and Broad Streets, Atlanta, GA. This fall caused Mrs. Clarke to break her right ankle. Mrs. Clarke was initially treated at Grady Memorial Hospital in Atlanta. Mrs. Clarke is still receiving medical treatment and therapy because of this incident.

It is the intent of Mrs. Clarke to sue your City to recover for her injuries which were caused by the negligence of your city in not maintaining its streets in a safe condition.

Mrs. Clarke has expended considerable sums of money for medical treatment and it is expected that she will have to do so in the future because of this injury. Moreover, Ms. Clarke has had to miss time from work because of this injury. Further, she has had to employ a person to assist her with day to day living because of this incident. We believe she will suffer damages in excess of \$65,000.00 as a result of the incident.

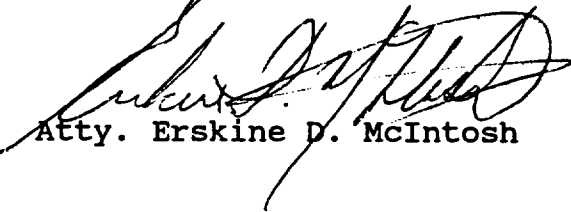
February 7, 1997

Page 2

The foregoing is submitted to you for notice to and adjustment by your municipality pursuant to the GA. Code Ann. Section 36-33-5(a-d).

With kindest regards, I am

Sincerely,



Atty. Erskine D. McIntosh

EDM/vlf

cc: Mrs. Barbara Clarke
Atty. Lynda Wilson Orr

11.1(b)